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AO 243 (Rev. 09/17)

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MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT

SENTENCE BY A PERSON IN FEDERAL CUSTODY

United States District Court		District
Name (under which you were convicted): Courtney Curtis		Docket or Case No.: 4:22cv183 SRC
Place of Confinement: FCL EIkton	Prisoner No.: 16481-509	
UNITED STATES OF AMERICA		Movant (include name under which convicted) V. Courtney Curtis

MOTION

1. (a) Name and location of court which entered the judgment of conviction you are challenging:

Eastern District court of Missouri in St. Louis, MO

(b) Criminal docket or case number (if you know): _____

2. (a) Date of the judgment of conviction (if you know): 11-6-20

(b) Date of sentencing: 3-31-21

3. Length of sentence: 21 months

4. Nature of crime (all counts):

5. (a) What was your plea? (Check one)

(1) Not guilty ☐(2) Guilty ☒(3) Nolo contendere (no contest) ☐

6. (b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, what did you plead guilty to and what did you plead not guilty to?

6. If you went to trial, what kind of trial did you have? (Check one)

Jury ☐Judge only ☐

7. Did you testify at a pretrial hearing, trial, or post-trial hearing?

Yes ☐No ☐

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8. Did you appeal from the judgment of conviction?

Yes ☐

No ☒

9. If you did appeal, answer the following:

(a) Name of court: _____

(b) Docket or case number (if you know): _____

(c) Result: _____

(d) Date of result (if you know): _____

(e) Citation to the case (if you know): _____

(f) Grounds raised: _____

(g) Did you file a petition for certiorari in the United States Supreme Court?

Yes ☐

No ☒

If "Yes," answer the following:

(1) Docket or case number (if you know): _____

(2) Result: _____

(3) Date of result (if you know): _____

(4) Citation to the case (if you know): _____

(5) Grounds raised: _____

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications, concerning this judgment of conviction in any court?

Yes ☒

No ☒

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: US Eastern District court

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): 1-14-22

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(4) Nature of the proceeding: Compassionate release

(5) Grounds raised:

no factual basisineffective assistance of counselsentencing lawyer didnt appealplea was not withdrawnI was high during fbi interview at my apartment.

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐No ☒(7) Result: N/A(8) Date of result (if you know): N/A

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court: _____

(2) Docket of case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐No ☐

(7) Result: _____

(8) Date of result (if you know): _____

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition:

Yes ☐No ☐

(2) Second petition:

Yes ☐No ☐

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not:

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12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: Ineffective assistance of counsel

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

plea counsel failed to discuss elements of fraud, said we couldn't have FBI conversation thrown out and we may never know where case came from. Plea counsel stopped actively working on case, said my case was on hold because of \$ when I asked for PSR. Plea counsel requested a decision on my plea multiple times and said he believed if I plead early I could get home confinement, after I asked if it was normal to plea before indictment. Sentencing counsel failed to withdraw plea or file appeal. When I stated reasons for withdrawing plea he said, "that dog don't hunt". I then stated if we couldn't have the arguments or motion for appeal ready. Sentencing lawyer refused to talk on phone more than briefly or email as stated in court and was pressured into 3/31 sentencing date after his mother died and he requested more time. ^{Didn't investigate due process} violations in M.E.C. report

(b) **Direct Appeal of Ground One:**

- (1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

- (2) If you did not raise this issue in your direct appeal, explain why:

(c) **Post-Conviction Proceedings:**

- (1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☒ No ☐

- (2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: Compassionate release

Name and location of the court where the motion or petition was filed:

US District Court Eastern division of Missouri

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

- (3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☒

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(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

GROUND TWO: Sentencing counsels performance was deficient

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Sentencing counsel failed to withdraw plea, stating "that dog don't hunt" after I told him reasons. Failed to appeal after I said if I cant withdraw have the motion or arguments ready. Sentencing counsel refused to talk on phone more than briefly or use email as stated in court.

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

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(2) If you did not raise this issue in your direct appeal, explain why:

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐

No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐

No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐

No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐

No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

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GROUND THREE: Counsel's deficient performance prejudiced me

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Plea counsel failed to discuss elements of fraud, failed to fully investigate where case came from, stated that the FBI conviction couldn't be thrown out and failed to discuss why I asked these questions. Sentencing counsel failed to work diligently on my case after I couldn't come up with money for a forensic accountant, later told me my case was on hold due to money. Counsel's lack of investigation and actions led to me pleading to a full 3 counts before being indicted and ^{without} having fully investigated the case. Plea counsel told me he didn't want to "fucking represent me anymore!" I don't know when that started because in February he stated there was no factual basis for case, and

(b) **Direct Appeal of Ground Three:** then had to withdraw because we'd be at odds as to how I arrived at a guilty plea. He asked what he had just been told I didn't ask for the money, and I said we didn't discuss it.

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐No ☐

(2) If you did not raise this issue in your direct appeal, explain why:

(c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐No ☐

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(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

GROUND FOUR: Due process violated

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

The Missouri Ethics Commission denied me a right to get an attorney, postpone proceedings that were administrative, when I had little money to obtain a lawyer, refused to allow me a prehearing conference to contest submitted evidence, which is not 100% accurate, and made a ~~recommend~~ recommendation to prosecute after denying me due process in an administrative hearing process, where if life, liberty or property are at stake, must be afforded. I was high during FBI interview, the convo was used against me.

(b) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☒No ☐

(2) If you did not raise this issue in your direct appeal, explain why:

(c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☒No ☐

(2) If you answer to Question (c)(1) is "Yes," state:

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Type of motion or petition: Compassionate release

Name and location of the court where the motion or petition was filed:

US District Court of Missouri, Eastern Division

Docket or case number (if you know):

Date of the court's decision: N/A

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐No ☒

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

Due process, prejudice from performance of counsel, deficient performance. I lumped them all into my compassionate release request, before knowing terms, as all ineffective assistance of counsel essentially.

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14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the you are challenging? Yes ☒ No ☐

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

Compassionate release, Eastern District Court of Missouri. I raised ineffective assistance of counsel as a catch all, while explaining issues.

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At the preliminary hearing:

(b) At the arraignment and plea:

Talmage Newton IV

(c) At the trial:

(d) At sentencing:

John Stobbs

(e) On appeal:

(f) In any post-conviction proceeding:

(g) On appeal from any ruling against you in a post-conviction proceeding:

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time? Yes ☒ No ☐

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☒

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed:

(c) Give the length of the other sentence:

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes ☐ No ☐

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18. **TIMELINESS OF MOTION:** If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.*

I was unaware of past conviction proceedings and the severity of the performance of my lawyers and the actions I was able to take. I was also depressed and lost weight from the moment after the FBI left my door in August of 2020.

I was not apprised of my rights or actions I could take by counsel. I was high during my FBI interview, which is why I didn't let them come in my apartment, Talmage Newton, the plea counsel

stated there was no factual basis for fraud after ~~that~~ discovering I didn't ask for the campaign funds, to which he said "why am I just now hearing this" "I said because we didn't discuss it" he put my case on hold due to money and had deficient performance up to the point of the PSR

correction deadline, where I didn't get the PSR until 5pm, on or about the day it was due, although it was completed 12-31-20 and he received it shortly afterwards. My lawyer stated "he didn't want to fucking represent me anymore" and that

deprived me of adequate representation leading to a plea I was pressured into ~~and~~ and signed while high, and I was not able to get experts or withdraw my plea. Leaving the conviction would be an injustice.

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of -

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

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Therefore, movant asks that the Court grant the following relief:

Vacate sentence
or any other relief to which movant may be entitled.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on 3-1-22
(month, date, year)

Executed (signed) on 3-1-22 (date)

Courtney Curt
Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

COURTNEY CURTIS,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent.

No. 4:22-cv-00183-SRC

Order

This matter is before the Court on review of self-represented movant's filing received February 14, 2022, which the Court will construe as a motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255. Movant's motion is defective because it has not been drafted on a Court-provided form. *See* Local Rule 2.06(A). The Court will order movant to file an amended motion on a Court-provided form.

Accordingly,

IT IS HEREBY ORDERED that the Clerk is directed to mail to movant a copy of the Court's form motion under 28 U.S.C. § 2255 to vacate, set aside, or correct sentence by a person in federal custody (AO Form No. AO-0243).

IT IS FURTHER ORDERED that movant shall file an amended motion on the Court-provided form within twenty-one (21) days of the date of this Order. Movant is advised that his amended motion will take the place of his original complaint and will be the only pleading that this Court will review.

IT IS FURTHER ORDERED that if movant fails to comply with this Order, the Court may dismiss this action without prejudice.

Dated this 17th day of February 2022.


STEPHEN R. CLARK

UNITED STATES DISTRICT JUDGE